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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,096	04/08/2004	Mark Turner	6325.4-1	8986
23559	7590	05/05/2006	EXAMINER	
MUNSCH, HARDT, KOPF & HARR, P.C. INTELLECTUAL PROPERTY DOCKET CLERK 3800 LINCOLN PLAZA 500N AKARD STREET DALLAS, TX 75201			WATSON, ROBERT C	
			ART UNIT	PAPER NUMBER
			3723	

DATE MAILED: 05/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. 10/821,096	Applicant(s) TURNER, MARK
Examiner Robert C. Watson	Art Unit 3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 12 April 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-23 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-16 and 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flowers.

Flowers shows a line retrieval system. The system includes a housing having a magnet and rollers for magnetic attraction to an object located at the other side of a wall. The amount of magnetic attraction can be increased by simply turning a rheostat 52. The Flowers device appears to differ at most (if in fact there is any difference at all) from the instant application device by the amount of magnetic attraction force supplied by the magnet in the housing or by the weight of the roller/housing assembly. Indeed there is nothing the Flower's disclosure that contradicts the possibility of the roller/housing following the movement of the object. The fact that the roller/housing can be pushed to pull the object does not preclude the fact that the object can also be pushed and the roller/housing will follow the object. If the magnetic attraction force supplied is raised sufficiently and if the housing/magnet/rollers weight is reduced, the object at the other side of the wall would be capable of supporting the housing with the rollers and magnet without a user holding the housing. The magnetic force supplied by the housing magnet is no more than an obvious matter of design choice absent a showing of criticality for this feature. Certainly high magnetic force magnets are well known and obvious. Similarly, the weight of the housing/magnet/rollers is similarly no

more than an obvious matter of design choice absent a showing of criticality for this feature. Certainly lightweight plastics are well known and obvious. The handle 46 in Flowers may be termed a counterweight. As viewed in Figure 2 of Flowers, the vertical portion of the handle may be termed a rod and the horizontal portion of the handle may be termed a weight.

Claims 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flowers in view of Leith.

Leith teaches that an "object" may have a magnet disposed in a sleeve; ie., in Figure 1 of Leith, object 34 is received within insulative shield sleeve 38.

To provide in Flowers, instead of object 38, an object within a sleeve would have been obvious for one skilled in the art at the time the invention was made in view of the disclosure of Leith. One of ordinary skill in the art would have been motivated to do this in order to provide an insulative support for the magnetically attractable object.

Applicant's remarks have been given careful consideration. Applicant's remarks are not persuasive of any error whatsoever in the rejection of record. Applicant urges that such simple parameters such as the weight of the Flowers housing and the amount of magnet attraction force supplied by the magnet is not an obvious matter of choice, but to the contrary, these parameters are very critical features of applicant's invention. The examiner disagrees. Applicant has apparently failed to read column 3 of the Flowers disclosure wherein it is recited that a "rheostat 52 allows the intensity of the magnetic force to be set to a desired level". Accordingly, the amount of magnetic force applied can be obviously be increased as desired since provision was made to

change the intensity of the magnetic force. Further since the wheels of the Flowers device are disclose as being made from "plastic" (Flowers, column 4) the housing/roller assembly combination is considered to be light-weight. Since the magnetic force is capable of being increased with the provided rheostat and since light weight material is in-part used in the housing/roller assembly it is believe to be axiomatic that the Flower device is capable of performing the intended use recited in the claims; ie., with the rheostat turned to select maximum magnetic attraction the light weight housing/roller assembly will follow the movement of the object in the enclosure. At most, applicant's invention, is in selecting a "minimal weight" for the housing/roller assembly – this is hardly a non-obvious parameter since making devices from lightweight plastic is well known and obvious. Further, if this were so critical a feature of applicant's invention why has applicant failed to set forth in applicant's specification what the exact weight of the housing/roller assembly is? Similarly, why has applicant's specification failed to set forth what the exact magnetic force is in numerical terms; ie., how many gauss is needed for the roller/housing to follow the object? Similarly, why has applicant failed to specify what material the roller/housing is made from since the weight is critical? If these were such critical features why has applicant failed to incorporate them into applicant's specification? Does applicant expect one skilled in the art to use undue experimentation to ascertain what the weight of the housing/roller assembly should be and what amount of gauss is needed for the magnetic coupling? It is respectfully submitted that applicant's own specification evidences the fact that the amount of magnetic attraction and the exact weight of the roller/housing are not critical features of

applicant's invention. If applicant's specification is devoid of any mention of what the amount of weight in pounds or grams is or what magnetic gause is being employed how can these be critical features of the invention? These features are merely obvious matters of design choice since applicant's specification fails to show them to be critical features. Finally, applicant argues that the Flower disclosure states that the roller/housing is pushed and the object follows the roller/housing and applicant then illogically jumps to the conclusion that the Flower roller/housing is incapable of following the object. There is nothing the Flower's disclosure that contradicts the possibility of the roller/housing following the movement of the object. The fact that the roller/housing can be pushed to pull the object does not preclude the fact that the object can also be pushed and the roller/housing will follow the object.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert C. Watson whose telephone number is 571 272-4498. The examiner can normally be reached on Mon. - Thurs. , 5:30am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J. Hail III can be reached on 571 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

rcw



ROBERT C. WATSON
PRIMARY EXAMINER